IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7280 of 1997

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BANCO PRODUCTS (INDIA) LTD. - Petitioner(s)

Versus

BHIKHABHAI R PATEL - Respondent(s)

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Appearance :

MR KM PATEL for Petitioner No(s).: 1.

MR MS MANSURI for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 14/07/2005

ORAL JUDGMENT

1. This petition is directed against the award dated 3rd June, 1997 passed by the Labour Court in Reference [L.C.V.] No. 441 of 1988 whereby the Labour Court has directed the petitioner to reinstate the respondent workman in service with full back wages.

2. The short facts of the case are that the

respondent workman was working as Junior Officer with the petitioner Company. The respondent was dismissed from the service on the ground of mis behaviour with the other employee.

2.1. Against the penalty of dismissal, the respondent preferred Civil Suit being Civil Suit No. 1713/87 before the Court of learned Civil Judge (J.D.) Baroda whereby the learned Judge has passed the ex-parte injunction order and the said order was thereafter confirmed by the learned Trial Judge vide order dated 14th December, 1987. Pursuant to that, the petitioner Company preferred Misc. Civil Appeal, whereby the stay granted by the Trial Court was vacated.

2.2. As against that the respondent workman preferred Civil Revision Application which came to be dismissed summarily. The respondent workman was dismissed from the service w.e.f. 2nd February, 1988.

2.3. Being aggrieved by the said order, the respondent workman raised an industrial dispute before the Labour Court for adjudication. The Labour Court after considering the case on merits, passed the impugned

award. Hence, this petition.

3. During the course of arguments, a suggestion was put forward by this Court to the learned counsel for the parties as to whether the date on which the respondent was dismissed from service be treated as the date on which the respondent has voluntarily resigned from the service.

4. After consulting the respective parties who are present in the Court, the learned counsel for the parties have agreed to accept the suggestion put forward by this Court in its true spirit. Hence, with the consent of the parties, the following order is passed.

I. The award dated 3rd June, 1997 passed by the Labour Court in Reference [L.C.V.] No. 441 of 1988 is quashed and set aside.

II. The petitioner Company is directed to consider the respondent as if he has voluntarily resigned from the service w.e.f. 2nd February, 1988 i.e., the date on which he was dismissed from the service. It is further

directed that the petitioner Company shall pay all the retirement dues to the respondent as if he has voluntarily retired from the service on 2nd February, 1988 within a period of three months from date of receipt of writ of this order.

III.The 17B benefits which were being paid up till now, shall be treated as ex-gratia, in addition to the amount paid till this date as per Section 17B of the Industrial Disputes Act, 1947. It is further directed that the respondent shall be paid additional amount of wages as per Section 17B of the Act for a further period of twelve months. Such payment shall be made within a period of three months from the date of receipt writ of this Court.

5. With the aforesaid directions, the petition stands disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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